

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA

v.

JA-QUAN WALKER

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Case No. 2:21-mj-00267-JHR

UNITED STATES' MOTION FOR LEAVE TO DISMISS COMPLAINT

The United States of America, by and through its attorneys, Darcie N. McElwee, United States Attorney for the District of Maine, and Meghan E. Connelly, Assistant United States Attorney for the District of Maine, hereby moves for leave to dismiss the complaint in the above-styled case without prejudice, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure.¹

The defendant has been charged by complaint with one count of possession by a prohibited person of ammunition, in violation of 18 U.S.C. § 922(g). The attorneys for the United States have concluded that, as of today's date, the admissible portion of the available evidence against the defendant would not permit a properly instructed jury to find beyond a reasonable doubt that the defendant is guilty of the charge contained in the complaint.

Undersigned counsel has spoken with counsel for the defendant, and counsel for the defendant indicated there is no objection from the defendant to the United States' motion.

¹ Rule 48(a) of the Federal Rules of Criminal Procedure provides in pertinent part: "The government may, with leave of the court, dismiss an indictment, information, or complaint." Fed. R. Crim. P. 48(a). "Customarily Rule 48(a) dismissals are without prejudice and permit the government to reindict within the statute of limitations." *United States v. Raineri*, 42 F.3d 36, 43 (1st Cir. 1994). *See also* 3B Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 801 (4th ed. 2019) ("A dismissal properly taken under Rule 48(a) is without prejudice and, within the period of the statute of limitations, a second indictment or information may be brought on the same charge.").

Accordingly, the United States respectfully requests this Honorable Court's leave to dismiss the complaint without prejudice under Rule 48(a) of the Federal Rules of Criminal Procedure.

Dated: November 22, 2021

Darcie N. McElwee
United States Attorney

/s/Meghan E. Connelly
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CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2021, I filed the foregoing United States' Motion for Leave to Dismiss Complaint using the Court's CM/ECF system, which will cause a copy of the motion to be sent to all counsel of record.

Darcie N. McElwee
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